IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

CHAMBER SUMMONS NO.629 OF 2007
IN
SUIT NO.572 OF 1995

R.K. Builders ....Plaintiff
V/s.
Late Albert Ignatius Pereira & Ors. ....Defendants
And
Morris Nicoles Buthelo & Ors. ....Respondents

Mr.G.N. Salunke for the Plaintiff.

Mr.R.S. Mishra for the Respondents.

CORAM : S.J. VAZIFDAR, J.
DATED : 4TH OCTOBER, 2007.

P.C. :

1. The suit is filed against the Defendants for specific performance. The Chamber Summons is filed to implead the Respondents for the reasons that the Respondents claimed title to the suit property. The Respondents however claimed title to the suit property independently and not through the Defendants in any manner whatsoever. In the circumstances, there is no warrant for requiring the Respondents to face a trial on the question of specific performance as well on the question of title.

2. The Plaintiff will suffer no prejudice if he has to file a separate suit against the Respondents and the Defendants regarding title. In that event, if for instance the suit for specific performance is dismissed for any reason, it would not be necessary for the Respondents to face a trial in the second suit. The Respondents in any event would not have to face a trial in this suit as the Respondents are not concerned with the claim for specific performance.

3. In the circumstances, the Chamber Summons is dismissed. The Plaintiff is always at liberty to file a separate suit against the Respondents and/or the Defendants regarding title. The order dated 27.6.2007 shall continue for a period of eight weeks from today.